

**PERSONAL INFORMATION PROTECTION**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Douglas C. Aagard**

**This act modifies Commerce and Trade provisions to require a business conducting a transaction with a resident of the state to disclose if the business intends to sell to a third party nonpublic personal information that the business acquires about the resident. The act allows the resident to elect not to have the information shared and provides a right of action for a violation of the requirements.**

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**13-34-101**, Utah Code Annotated 1953

**13-34-102**, Utah Code Annotated 1953

**13-34-103**, Utah Code Annotated 1953

**13-34-104**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **13-34-101** is enacted to read:

**CHAPTER 34. PERSONAL INFORMATION PROTECTION ACT****13-34-101. Title.**

This chapter is known as the "Personal Information Protection Act."

Section 2. Section **13-34-102** is enacted to read:

**13-34-102. Definitions.**

As used in this chapter:

(1) "Affiliate" means a company that controls, is controlled by, or is under common control with another company.

(2) "Business" means a person who engages in a transaction with a resident.

(3) "Nonpublic personal information" means information that:



(a) is not available to the public generally;

(b) (i) either alone or in conjunction with information that is available to the public generally, identifies a resident in distinction from all other persons; or

(ii) consists of a resident's:

(A) Social Security number;

(B) income or other information used to determine a person's creditworthiness;

(C) employment; or

(D) buying habits or personal preferences; and

(c) (i) is provided by a resident to a business preliminary to, as part of, or in connection with a transaction between the resident and the business; or

(ii) is otherwise acquired by the business.

(4) "Resident" means a natural person who resides in the state.

(5) "Third party" means all persons other than the business that obtains the nonpublic personal information, including an affiliate of the business.

(6) "Transaction" means:

(a) the establishment of a customer relationship between a resident and a business, whether or not an actual sale or lease also takes place at the same time; and

(b) the sale or lease by a business of goods, including real property, or services to a resident.

Section 3. Section **13-34-103** is enacted to read:

**13-34-103. Requirements for sharing nonpublic personal information -- Disclosure -- Resident may elect to prevent sharing of information -- Prohibition against sharing if election made.**

(1) Each business that obtains nonpublic personal information about a resident of the state with whom the business enters into a transaction and intends to sell that information to a third party shall:

(a) as provided in Subsection (2), conspicuously disclose to the resident that:

(i) the business intends to sell the nonpublic personal information to one or more third parties; and

(ii) the resident may elect not to have the resident's nonpublic personal information sold to a third party; and

59           (b) provide the resident a convenient, immediate, no-cost method to indicate to the  
60 business the resident's election not to have the resident's nonpublic personal information sold to  
61 a third party.

62           (2) The disclosure required under Subsection (1)(a) shall be made at the time of each  
63 transaction in connection with which the resident provides to the business or the business  
64 otherwise obtains nonpublic personal information about the resident.

65           (3) A business that obtains nonpublic personal information about a resident who has  
66 elected not to have that information sold to a third party may not sell that information to a third  
67 party.

68           Section 4. Section **13-34-104** is enacted to read:

69           **13-34-104. Private action.**

70           (1) A resident may bring an action against a business that violates any of the requirements  
71 of Section 13-34-103.

72           (2) In an action under Subsection (1):

73           (a) a resident:

74           (i) shall be awarded the greater of actual damages, if any, suffered as a result of the  
75 violation or \$500; and

76           (ii) may seek to enjoin conduct in violation of Section 13-34-103; and

77           (b) each prevailing resident shall be awarded costs and reasonable attorney fees.

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**Legislative Review Note**  
**as of 1-23-02 9:13 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**